

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL TUNO, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
NWC WARRANTY	:	
CORPORATION, et al.	:	NO. 11-3958

ORDER

AND NOW, this 8th day of September, 2011, upon consideration of defendants' July 28, 2011 motion to dismiss plaintiffs' complaint pursuant to Fed. R. Civ. P. 12(b)(6) (docket entry # 6), and the Court finding that:

(a) According to Local Rule of Civil Procedure 7.1(c),

[A]ny party opposing [a] motion shall serve a brief in opposition, together with such answer or other response which may be appropriate, within fourteen (14) days after service of the motion and supporting brief, except that in the case of a motion under Fed. R. Civ. P. 12(b) or 56, the opposing party shall respond within twenty-one (21) days. In the absence of timely response, the motion may be granted as uncontested except that a summary judgment motion, to which there has been no timely response, will be governed by Fed. R. Civ. P. 56(c).

(b) Under Fed. R. Civ. P. 6(d), however, "[w]hen a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a)," where Rule 5(b)(2)(E) provides that "[a] paper is served under this rule . . . by sending it by electronic means if the

person consented in writing -- in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served”;

(c) Defendants electronically filed their July 28, 2011 motion to dismiss, so that plaintiffs had twenty-four days to file a response, or until August 21, 2011; and

(d) Because plaintiffs did not file a response to defendants' motion within this period or request an extension of time to do so, we will grant the motion as unopposed;

It is hereby ORDERED that:

1. Defendants' motion to dismiss the complaint (docket entry # 6) is GRANTED AS UNOPPOSED;

2. The complaint against defendants Diana Hagmaier, National Warranty Corporation, NWC Administration, Inc., and NWC Warranty Corporation is DISMISSED; and

3. The Clerk of Court shall statistically CLOSE this case.

BY THE COURT:

/s/ Stewart Dalzell, J.